

International Business Law and Its Environment, 10e

Chapter 1
Introduction to International Business

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1

Introduction

- In the 21st century global economy, no businesses are purely “local”
 - Factors: technology, communication, natural resources, climate, move towards free trade, growing demand of third world countries

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2

Forms of International Business
(Slide 1 of 2)

- Trade
- Licensing of intellectual property
- Foreign direct investment
 - Not mutually exclusive

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3

Forms of International Business

(Slide 2 of 2)

- Trade: the import or export of goods and services across national borders

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4

4

Trade (Slide 1 of 5)

- Exporting: shipping goods or rendering services to a foreign buyer in a foreign country
 - Often a firm's first step into international business
 - Can be direct, in which the exporter assumes responsibility for most export functions

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5

5

Trade (Slide 2 of 5)

- Exporting (cont'd)
 - Exports can be sold by independent foreign sales representatives in the foreign country who work on commission
 - Can also be sold by foreign distributors, firms that receive goods and resell to customers
 - Exports can be indirect, through intermediaries

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6

6

Trade (Slide 3 of 5)

- International Trading Companies: firms that specialize in all aspects of import/export transactions
 - Export Trading Companies: market products of several manufacturers in foreign countries
 - Certificate of Origin – one of the most important legal documents used
 - See the **Tarbert Trading, Ltd. V. Cometals, Inc.** (1987) case

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Trade (Slide 4 of 5)

- Export Management Companies: independent firms that assume export-related duties for manufacturers, producers, or other exporters

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Trade (Slide 5 of 5)

- Small Business Success
 - In 2010, of 293,000 companies exporting goods from U.S., 98% were small- to medium-sized businesses with less than 500 employees
 - Exporting should not be viewed as solution to failure at home
 - Requires executive-level commitment
 - Requires adaptation to doing business in a new environment

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9

9

Licensing and Protection of Intellectual Property Rights (Slide 1 of 5)

- Intellectual Property Rights: legal rights which result from intellectual activity in the industrial, scientific, literary, and artistic fields; examples:
 - Patents
 - Trademarks
 - Copyrights
 - Trade secrets

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10

10

Licensing and Protection of Intellectual Property Rights (Slide 2 of 5)

- International Licensing Agreements: contracts by which the holder of intellectual property will grant certain rights in that property to another party in return for consideration
 - See the **Russian Entertainment Wholesale, Inc. v. Close-Up International, Inc.** case (2011)

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11

11

Licensing and Protection of Intellectual Property Rights (Slide 3 of 5)

- International Organizations and IP: foster cooperation and resolve disputes
 - Most important is WIPO
- Infringement: the violation of IP rights of another
 - Often referred to as piracy or counterfeiting

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12

12

Licensing and Protection of Intellectual Property Rights (Slide 4 of 5)

- Transfer of Technology: sharing of scientific information, technology, and manufacturing know-how
- International Franchising: business arrangement that uses an agreement to license, control, and protect the use of the franchisor's patents, trademarks, copyrights, or business know-how in return for royalties, fees, or commissions

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13

13

Licensing and Protection of Intellectual Property Rights (Slide 5 of 5)

- Some Legal Aspects of Franchising
 - Good vehicle for entering foreign market
 - Involves many legal requirements
 - See the **Dayan v. McDonald's Corp.** case (1984)

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14

14

Foreign Direct Investment (Slide 1 of 3)

- Foreign Direct Investment
 - Ownership and active control of ongoing business concerns including investment in manufacturing, mining, farming and other production facilities in a foreign (host) country
 - Home vs. Host countries
 - FDI provides greatest degree of market penetration, as well as greatest risk

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15

15

Foreign Direct Investment (Slide 2 of 3)

- Forms of Investment
 - Foreign branch
 - Foreign subsidiary
 - Affiliate
 - Joint venture
 - Local participation

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16

Foreign Direct Investment (Slide 3 of 3)

- Multinational Corporations
 - Firms with significant foreign investments, assets, or operations move technology, factories, and capitals with most favorable economic conditions

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17

17

Conducting Business in Developing and Newly Industrialized Countries (Slide 1 of 3)

- What is the difference between a “developed” and “developing” country?
 - Banking and finance, law enforcement, energy, health, poverty, political instability, protectionist policies
- Controls on Investment in Developing Countries →

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18

18

Conducting Business in Developing and Newly Industrialized Countries (Slide 2 of 3)

- Challenges of Doing Business in Developing Countries
 - Adverse government policies
 - Rules often lack transparency
 - Barriers have softened in recent years
 - See the **In re Union Carbide Corporation Gas Plant Disaster at Bhopal (1987)** case

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19

19

Conducting Business in Developing and Newly Industrialized Countries (Slide 3 of 3)

- Newly Industrialized Countries
 - Largest include **Brazil, Russia, India, China, Saudi Arabia, Thailand, Mexico**
 - Countries in transition to free markets include former Soviet Union and China
- The Least Developed Countries
 - Examples: sub-Saharan Africa, Haiti, Bangladesh, Cambodia, Afghanistan

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20

20

Some Common Risks of International Business (Slide 1 of 6)

- Distance and Logistics
 - Payment or Credit Risk
 - Supplier Risk
 - Property or Marine Risk
 - See the **Transatlantic Financing Corp. v. United States (1966)** case

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21

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Some Common Risks of International Business (Slide 2 of 6)

- Language and Cultural Barriers
 - Contract formation may require native speakers
 - See the **Gaskin v. Stumm Handel** (1975) case

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22

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Some Common Risks of International Business (Slide 3 of 6)

- Cross-Border Trade Controls
 - Export controls
 - Sanctions
 - Tariffs
 - Non-tariff barriers

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23

Some Common Risks of International Business (Slide 4 of 6)

- Currency Risk
 - Exchange Rate Risk
 - See the **Bernina Distributors v. Bernina Sewing Machine Co.** (1981) case
 - Currency Controls

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Some Common Risks of International Business (Slide 5 of 6)

- Political Risk
 - Nationalization: transfer of private sector firms to government ownership and control
 - Expropriation: the taking by a government of privately owned assets with some compensation
 - Confiscation: expropriation without payment or compensation

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25

25

Some Common Risks of International Business (Slide 6 of 6)

- Exposure to Foreign Laws and Courts
 - **DIP SpA v. Comune di Bassano del Grappa**
- Receiving Professional Assistance in Going International
 - The International Attorney
 - Freight Forwarder/Customs Broker
 - The International Banker

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26

26

Conclusion

- Three direct methods of international business:
 - Trade, Licensing of Intellectual Property, and Foreign Direct Investment
- Knowledge of global environment: stay current with economics, cultures, politics, and law

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27

27
